

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

JERRY WOLF,

Plaintiff,

-vs-

ROSS E. SHAVALIER,
RYAN J. EDGERLE, and
in their individual and official capacities,
Defendants.

Case No.
Honorable
Magistrate

Michelle E. Vocht (P32924
Roy, Shecter & Vocht, P.C.
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PLAINTIFF'S COMPLAINT

NOW COMES PLAINTIFF, by and through counsel, and for his
Complaint and Jury Demand against the Defendants states as follows:

INTRODUCTORY AND JURISDICTIONAL STATEMENTS

1. This is a civil rights action for money damages brought pursuant to 42 U.S.C. §§1983 and 1988, the Eighth and Fourteenth Amendments to the United States Constitution against these named defendants in their individual capacities and/or official capacities.
2. It is alleged the Defendants, while acting under color of law and in the scope and course of their employment as sheriff's deputies subjected

Plaintiff to cruel and unusual punishment and violated his rights under federal law and his rights as secured by the United States Constitution.

3. The heart of Plaintiff's complaint is that he was subject to cruel and unusual punishment by the Defendants when they each intentionally and deliberately threw Plaintiff into a wall, causing him to break his tooth when no amount of force was required, in violation of the Eighth Amendment to the United States Constitution, as actionable through 42 U.S.C. § 1983.

4. Jurisdiction of this Court is based on 28 U.S.C. § 1331 and § 1333.

5. Venue is proper within the Western District of Michigan because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred within this district, certain defendants reside within this district, and upon information and belief, all the defendants reside in the state of Michigan.

PARTIES

6. At all times relevant, Plaintiff was a resident of the County of Kent, State of Michigan.

1. Defendant Ryan Edgerle was, at all times relevant to this Complaint, a sheriff's deputy employed by the County of Kent, acting under color of law, and within the scope of authority and course of his employment.

2. Defendant Ross Shavalier was, at all times relevant to this Complaint, a sheriff's deputy employed by the County of Kent, acting under color of law,

and within the scope of authority and course of his employment.

3. As to the negligent conduct of the Defendants, it is alleged that the Defendants caused injuries to Plaintiff while acting in the course of employment or service or on behalf of their governmental employer and:

- (a) each employee was acting or reasonably believed that he was acting within the scope of his authority,
- (b) the governmental agency was engaged in the exercise or discharge of a governmental function, and
- (c) each employee's conduct amounted to gross negligence that was the proximate cause of the injury or damage to Plaintiff.

As to the intentional torts of the Defendants, it is alleged that:

- (a) The acts were undertaken during the course of employment and the employee was acting, or reasonably believed that he was acting, within the scope of his authority,
- (b) the acts were undertaken with lack of good faith, or were undertaken with malice, and
- (c) the acts were not discretionary.

4. All events, transactions, or occurrences pertinent hereto, occurred within the County of Kent, State of Michigan.

7. Actions by the Defendants were carried out under color of state law.

FACTUAL ALLEGATIONS

8. Plaintiff was booked into the Kent County Jail on September 21, 2018.

9. While in custody, on October 24, 2018 deputy Kyle Dunham received authorization to write Plaintiff up for Vulgar/Obscene language, and to set up a move within the jail with the classification deputy.

10. Plaintiff was instructed to pack his belongings and was reportedly “taking an extremely long time to pack his property.”

11. Deputy Shavalier asked Plaintiff to step out of his cell and place his hands on the wall for transfer.

12. Plaintiff continued to pack his belongings.

13. After attempting to coax Plaintiff out of his cell, Edgerle and Shavalier each entered the cell and each took one of Plaintiff’s arms to escort him from his cell.

14. Just prior to exiting the cell, Edgerle and Shavalier threw Plaintiff against the wall of his cell with enough force to break his tooth, and handcuffed him.

COUNT I - 42 U.S.C. § 1983 – EIGHTH AMENDMENT

15. The defendants, and each of them, acting under color of state law, employed excessive and wanton force against Plaintiff, subjecting him to cruel and unusual punishment in violation of the Eighth Amendment to the United States Constitution, as actionable under 42 U.S.C. § 1983.

16. As a result, Plaintiff experienced pain and suffering.

17. At all relevant times the law was clearly established such that qualified immunity is no defense to the plaintiff's constitutional claims.

DAMAGES

18. Plaintiff incorporates all preceding paragraphs as if fully set forth herein.

19. As the/a direct and proximate result of the conduct of Defendant, Plaintiff suffered injuries and damages, including, but not limited to:

- a. Extreme pain and suffering;
- b. Humiliation, embarrassment, shock, fear, outrage;
- c. Severe emotional distress; and mental injury;
- d. Physical injury to his body, and permanent scarring;
- e. Medical expenses;
- f. Other economic injury
- g. Other damages currently unascertainable;
- h. Exemplary damages and reasonable attorney fees, as provided by court rule and statutes, including but not limited to 42 USC 1988.

RELIEF REQUESTED

WHEREFORE, Plaintiff respectfully requests that this Honorable Court grant the plaintiff compensatory, exemplary, and punitive damages commensurate with his injuries for all qualified claims and enter a judgment for the plaintiff; declare that Plaintiff's constitutional rights were

violated by the defendants; award the plaintiff his costs, interest from the date of filing, and reasonable attorneys' fees as permitted by federal law; and grant such further relief as is consistent with law and which this Honorable Court deems just and proper.

Respectfully submitted,
The Michigan Law Firm, PLLC
/s/ RACINE M. MILLER
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Dated: October 25, 2021

DEMAND FOR TRIAL BY JURY

NOW COMES the Plaintiff, JERRY WOLF, by and through counsel, and hereby respectfully requests that the above-named civil action be heard before a jury.

RELIEF REQUESTED

WHEREFORE, Plaintiff respectfully requests that this Honorable Court grant the plaintiff compensatory, exemplary, and punitive damages commensurate with his injuries for all qualified claims and enter a judgment for the plaintiff; declare that Plaintiff's constitutional rights were violated by the defendants; award the plaintiff his costs, interest from the date of filing, and reasonable attorneys' fees as permitted by federal law; and

grant such further relief as is consistent with law and which this Honorable Court deems just and proper.

Respectfully submitted,

Dated: October 25, 2021

/s/Michelle E. Vocht

**Michelle E. Vocht (P3294)
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